

ISMAIL J. RAMSEY (CABN 189820)  
United States Attorney

THOMAS A. COLTHURST (CABN 99493)  
Chief, Criminal Division

GLENN S. LEON  
Chief  
Criminal Division, Fraud Section

KATHERINE LLOYD-LOVETT (CABN 276256)  
Assistant United States Attorney

450 Golden Gate Avenue, Box 36055  
San Francisco, California 94102-3495  
Telephone: (415) 436-7200  
FAX: (415) 436-7027  
Katherine.Lloyd-Lovett@usdoj.gov

S. BABU KAZA (DCBN 1033670)  
Trial Attorney, Fraud Section  
U.S. Department of Justice

Attorneys for United States of America

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

UNITED STATES OF AMERICA,	)	<b>NO. 22-CR-155 CRB</b>
	)	
Plaintiff,	)	<b>UNITED STATES' SENTENCING</b>
	)	<b>MEMORANDUM</b>
v.	)	
	)	
JASON DEAN COSTANZA,	)	Hearing Date: August 30, 2023
	)	Time: 10:00 a.m.
	)	Judge: Hon. Charles R. Breyer
Defendant.	)	

**I. INTRODUCTION**

On March 23, 2023, defendant Jason Dean Costanza pleaded guilty to Counts One and Two of the Indictment, charging him with conspiracy to defraud the United States and to make false statements

1 related to health care matters in violation of 18 U.S.C. § 371, and false statements to a government  
2 agency in violation of 18 U.S.C. § 1001(a)(2). *See* Presentence Investigation Report (“PSR”) ¶ 1. As  
3 discussed further below, the United States respectfully recommends that the Court impose a sentence of  
4 three years’ probation and a \$200 special assessment.

## 5 **II. BACKGROUND**

### 6 **A. Offense Conduct**

7 The United States concurs with the Probation Office’s (“Probation’s”) description of the offense  
8 conduct. PSR ¶¶ 6–12. Costanza participated in Dr. Juli Mazi’s (“Mazi’s”) fraudulent scheme to sell  
9 homeoprophylaxis pellets for immunization against COVID-19, accompanied by fake Centers for  
10 Disease Control and Prevention (“CDC”) vaccination record cards with instructions on how to complete  
11 the cards to make it appear that a COVID-19 vaccine authorized by the Food and Drug Administration  
12 (“FDA”) was administered. PSR ¶¶ 8–9. As Mazi’s office manager, Costanza was a full participant in  
13 Mazi’s scheme, and assisted her by scheduling appointments and informing prospective patients that  
14 they would receive CDC COVID-19 vaccination record cards as part of Mazi’s homeoprophylaxis  
15 treatment. PSR ¶ 10. In addition, in August 2021, Costanza lied to federal agents investigating Mazi’s  
16 scheme. PSR ¶ 11. Costanza falsely denied having awareness of Mazi’s use of fake CDC COVID-19  
17 vaccination record cards. PSR ¶¶ 11–12.

### 18 **B. Applicable Guidelines Calculation**

19 On March 23, 2023, Costanza pleaded guilty to Counts One and Two of the Indictment, charging  
20 him with conspiracy to defraud the United States and to make false statements related to health care  
21 matters in violation of 18 U.S.C. § 371, and false statements to a government agency in violation of 18  
22 U.S.C. § 1001(a)(2). *See* PSR ¶¶ 1–2. The government’s guidelines calculation comports with that of  
23 Probation. Probation has calculated a total offense level of 10. PSR ¶¶ 16–26. The government agrees  
24 with Probation’s determination that Costanza has zero criminal history points and is in Criminal History  
25 Category I. PSR ¶¶ 27–31. The resulting guidelines range is 6 to 12 months. PSR ¶ 64. Probation  
26 recommends a sentence of three years’ probation and a \$200 special assessment. *See* PSR, Sentencing  
27 Recommendation. The United States concurs with Probation’s guidelines calculation.

In addition, based on Costanza’s zero criminal history points, he would be eligible for a two-level downward adjustment pursuant to the forthcoming November 1, 2023, amendment to Chapter Four of the Sentencing Guidelines. This Court is required to apply the version of the Guidelines in effect at the time of sentencing. *See* 18 U.S.C. § 3553(a)(4)(A)(ii); U.S.S.G. § 1B1.11(a). Unless Congress provides otherwise, a proposed Guidelines amendment takes effect only after a prescribed period of congressional review has elapsed. *See* 28 U.S.C. 994(p); *Stinson v. United States*, 508 U.S. 36, 41 (1993) (“Amendments to the Guidelines must be submitted to Congress for a 6-month period of review, during which Congress can modify or disapprove them.”). In this instance, absent Congressional action, the amendment will not take effect until November 1, 2023. If the Court is inclined to consider the two-level reduction before it takes effect, the Court must calculate the Guidelines range under the current version of the Guidelines first. Then, the Court may vary downward in light of the proposed amendment. If the Court varies downward, the government asks that the Court clearly state that the variance is due to the amendment so that the defendant will not receive a further reduction if the Sentencing Commission subsequently makes the amendment retroactive.

Subject to the above discussion, the United States concurs with application of a two-level downward variance, which would result in a total offense level of 8, with a guidelines range of 0 to 6 months. With application of the variance, the United States concurs with Probation’s sentence recommendation of 3 years’ probation and a \$200 special assessment.

### **III. DISCUSSION**

#### **A. Applicable Law**

The Court should impose a sentence sufficient, but not greater than necessary, to reflect the purposes of sentencing that Congress identified in 18 U.S.C. § 3553(a)(2), specifically to reflect the seriousness of the offense, promote respect for the law, and provide just punishment; to afford adequate deterrence; to protect the public; and to provide the defendant with needed educational or vocational training, medical care, or other correctional treatment. *United States v. Carty*, 520 F.3d 984, 991 (9th

1 Cir. 2008). The Court should begin the process of determining an appropriate sentence by calculating  
 2 the correct sentencing range under the guidelines. *Id.*

3 After determining the appropriate guidelines calculation, the Court should then evaluate the  
 4 sentence for substantive reasonableness in light of the factors set out in Section 3553(a). *Carty*, 520  
 5 F.3d at 991–93. Under Section 3553(a), in arriving at the appropriate sentence for the defendant, the  
 6 Court should consider these factors applicable to this case, among others:

7 (1) The nature and circumstances of the offense and the history and characteristics of the  
 8 defendant;

9 (2) The need for the sentence imposed to reflect the seriousness of the offense, to promote  
 10 respect for the law, and to provide just punishment for the offense;

11 (3) The need for the sentence imposed to afford adequate deterrence to criminal conduct;

12 (4) The need for the sentence imposed to protect the public from further crimes of the  
 13 defendant; and

14 (5) The need to avoid unwarranted sentence disparities among defendants with similar records  
 15 who have been found guilty of similar conduct.

16 **B. A Sentence of Three Years' Probation is Sufficient and Not Greater Than Necessary**  
 17 **to Comply With 18 U.S.C. § 3553(a).**

18 In light of Costanza's acceptance of responsibility and lack of criminal history, as well as his  
 19 felony convictions for the instant offenses, a probationary sentence is consistent with the requirements  
 20 of 18 U.S.C. § 3553, adequately reflects the seriousness of the offenses, promotes respect for the law,  
 21 provides just punishment, and affords adequate deterrence. 18 U.S.C. § 3553(a)(2). Such a sentence is  
 22 also consistent with the probationary sentences issued by this Court to other facilitators of Mazi's  
 23 scheme in the related cases *United States v. Ranna Shamiya*, 22-CR-164 and *United States v. Jaimi*  
 24 *Jansen*, 22-CR-165.

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1 **IV. CONCLUSION**

2 With full consideration of all the sentencing factors set forth in 18 U.S.C. § 3553(a), the United  
3 States respectfully requests that the Court impose a sentence of three years' probation and a \$200 special  
4 assessment.

5  
6 DATED: August 23, 2023

Respectfully submitted,

7 ISMAIL J. RAMSEY  
8 United States Attorney

9 /s/ S. Babu Kaza  
10 S. BABU KAZA  
11 Trial Attorney  
12 KATHERINE M. LLOYD-LOVETT  
13 Assistant United States Attorney  
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